

REMARKS / ARGUMENTS

A. GENERALLY

Reconsideration of this application is hereby requested. Claims 10-15, 17-20, 22, 24, 25, 34-36, 38, 47, 50, and 58-66 are currently pending in the application. Claims 15 and 58-66 have been amended. Claims 10-11 remain withdrawn from consideration as being drawn to non-elected inventions. Claims 58-66, which were previously withdrawn from consideration, have been examined are identified in the current listing of claims as "Currently Amended."

B. CLAIM REJECTIONS

1. Rejections Under 35 U.S.C. §102

Claims 15 and 59 have been rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 4,554,922 issued to Prystowsky et al. (herein, "Prystowsky").

Prystowsky is directed to the application of a non-excitatory pulse during a refractory period following a heart beat. Prystowsky does not teach applying a non-excitatory pulse during the P-R interval.

Claims 15 and 59 have been amended to recite means for causing a non-excitatory DC electric current to flow between said at least two points, if desired, during a P-R interval.

2. Rejections Under §35 U.S.C. 103

Claims 61-64 have been rejected as unpatentable over Prystowsky. Claims 61-64 have been amended to recite conveying a non-excitatory anodal stimulation pulse of a magnitude and at a timing at which it is unable to generate a propagating action potential to at least one of the electrodes to modify the cardiac contraction. Prystowsky teaches the application of a non-excitatory pulse to the heart during a refractory period. However, Prystowsky does not teach the application of an anodal pulse to the heart as recited in amended claims 61-64. Applicant respectfully submits that application of non-excitatory anodal pulse to modify cardiac contraction is not an obvious extension of the teachings of Prystowsky and that, as amended, claims 61-64 are patentable over Prystowsky.

Claims 58, 60, 65, and 66 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Prystowsky in view of U.S. Patent 5,119,813 issued to Cohen (herein, "Cohen"). Claims 58, 60, 65, and 66 have been amended to recite application of a non-

excitatory anodal stimulation pulse of a magnitude and at a timing at which it is unable to generate a propagating action potential to at least one of the electrodes to modify the cardiac contraction. As demonstrated above, Prystowsky does not teach the application of anodal non-excitatory pulses to modify the contraction of the heart. Cohen does not cure this deficiency of Prystowsky. Applicant respectfully submits that claims 58, 60, 65, and 66 (as amended) are allowable over the combination of Prystowsky and Cohen.

C. INTERFERENCE

Applicant herein resubmits the Request for Interference under the new rules of 37 CFR 41.202.

D. CONCLUSION

For the above reasons, Applicant respectfully requests reconsideration of the stated rejections and submits that it is appropriate for the Examiner to declare an interference between the present application and U.S. Patent Nos. 6,233,484, 6,330,476, and 6,317,631. Early notice of such is respectfully requested.

Should any further questions arise concerning this application or in the event that the above amendments do not place the application in condition for allowance, Applicant respectfully requests a telephone interview. Attorney for the Applicant may be reached at the number listed below.

Respectfully submitted,



Elliott D. Light, J.D.
Registration No. 51,948
Roberts Mardula & Wertheim, LLC
11800 Sunrise Valley Drive, Suite 1000
Reston, VA 20191-5302
(703) 391-2900